

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

PONO PAANI, LLC,

Plaintiff,

v.

BELKIN INTERNATIONAL, INC.,

Defendant.

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Civil Action No. 1:17-cv-00054

JURY TRIAL DEMANDED

COMPLAINT

The Parties

1. Plaintiff Pono Paani, LLC is a limited liability company with a business address at 700 Lavaca Street, Suite 607, Austin, Texas 78701.

2. Upon information and belief, Defendant Belkin International, Inc. (“Defendant”) is a corporation with its principal place of business at 12045 E. Waterfront Drive, Playa Vista, California 90094.

Jurisdiction and Venue

3. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 and 1338 because this action is for patent infringement and arises under the Patent Laws of the United States, Title 35 of the United States Code.

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400.

5. Upon information and belief, Defendant does business in the State of Texas and this Court's district and/or places goods and services in the stream of interstate commerce, knowing that its goods and/or services will arrive in the State of Texas and in this Court's district. Upon information and belief, Defendant has committed the tort of patent infringement within the State of Texas and this Court's district. Venue and jurisdiction is therefore proper.

GENERAL AVERMENTS

Plaintiff's Patent Rights

6. United States Patent No. D694,226 S ("the '226 Patent") was duly and legally issued. *See Exhibit 1.* United States Patent No. D694,222 S ("the '222 Patent") was duly and legally issued. *See Exhibit 2.* The '222 Patent and '226 Patent shall collectively be referred to herein as the "Patents."

7. Plaintiff is the owner of all rights in and to the Patents.

8. The Patents concern designs for cases for working portable electronic devices.

Defendant and its Infringing Activities

9. Defendant is in the business of making, having made, using, selling, offering for sale, and/or importing in the United States the Belkin LEGO® Building Case for iPhone 5 and iPhone 5s, and LEGO Builder Case for iPod (the "Infringing Products"). Defendant sells and offers for sale the Infringing Products and the designs for such Infringing Products are substantially similar to the designs set forth in the Patents. This Infringing Products are cases for portable electronic devices, including smartphones and media players. *See Exhibit 3.*

10. Defendant makes, offers to sell, and/or sells its Infringing Products in the state of Texas and this district.

11. The activities of Defendant have been without authorization from Plaintiff.

12. On or about June 2, 2014, Plaintiff's counsel sent Defendant a letter providing a copy of the Patents, an explanation of what the Patents cover, an identification of the Infringing Products, and a request that Defendant respect Plaintiff's intellectual property rights in and to the Patents. *See Exhibit 4.* On or about August 8, 2014, Plaintiff's counsel sent a follow up letter to Defendant. *See Exhibit 5.* Defendant responded with an email message stating that Defendant would review the allegations set forth in Plaintiff's letter, and that Defendant or its license partner, The LEGO Group, would get back to Plaintiff's counsel once Defendant had ample time to review and consider the letter. *See Exhibit 6.* To date, Defendant continues to use, sell, and offer for sale the Infringing Products in the United States. *See Exhibit 7* (webpage screen capture on January 4, 2017).

COUNT I - PATENT INFRINGEMENT

13. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 12 of this Complaint as if fully set forth herein.

14. This cause of action arises under the Patent Laws of the United States, Title 35, United States Code.

15. Defendant has infringed and continues to infringe the Patents under 35 U.S.C. § 271 *et seq.* This infringement was and is willful and intentional.

16. Defendant has, without authority, consent, right or license, and in direct infringement of the Patents, made, used, sold, offered to sell, and/or imported the Infringing Products in this country, and, upon information and belief, such Infringing Products have been offered for sale, sold, and used in the state of Texas and this district.

17. Defendant's infringing conduct is willful, intentional, and unlawful and, upon information and belief, will continue unless enjoined by this Court.

DAMAGES

18. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 17 of this Complaint as if fully set forth herein. Plaintiff has suffered, is suffering, and will continue to suffer irreparable harm and injury as a result of Defendant's aforesaid activities. Defendant will, unless restrained and enjoined, continue to act in the unlawful manner complained of herein, all to Plaintiff's irreparable damage. Plaintiff's remedy at law is not adequate to compensate it for the injuries suffered and threatened. By reason of Defendant's acts complained of herein, Plaintiff has suffered monetary damages in an amount that has not yet been determined.

REQUEST FOR JURY TRIAL

19. Plaintiff hereby demands that this cause be tried by a jury.

PRAYER

20. WHEREFORE, Plaintiff demands:

A. That Defendant and its agents, officers, directors, employees, servants, representatives, customers, privies, successors and assigns, and all holding by, through or under Defendant, and all those acting for or on the behalf of Defendant, or in active concert, participation, or combination with Defendant, be enjoined and restrained, immediately and preliminarily (*i.e.*, a temporary restraining order, preliminary injunction, and/or permanent injunction as deemed appropriate by the Court), during the pendency of this action and permanently thereafter from, in the United States:

- (1) making, using, offering to sell, selling and/or importing the Infringing Products, or any colorable imitation thereof, and

(2) otherwise infringing upon the Patents.

B. That this Court order Defendant and its agents, officers, directors, employees, servants, representatives, customers, privies, successors and assigns, and all holding by, through or under Defendant, and all those acting for or on the behalf of Defendant, or in active concert, participation, or combination with Defendant, to deliver up to this Court, and to permit the seizure by Officers appointed by the Court of all articles and materials infringing upon the rights of Plaintiff, and particularly, without limitation, all products and materials which embodies or includes the Infringing Products and materials, and to be delivered up for destruction on the issuance of a final Order in this action, including all Infringing Products and materials, and Defendant submit in writing, under oath, a description of all actions taken to comply with this portion of the Order.

C. That Defendant be required to pay to Plaintiff such damages as Plaintiff has sustained in consequence of Defendant's infringement of the Patents.

D. That, in the alternative, a reasonable royalty be awarded to Plaintiff pursuant to 35 U.S.C. § 284.

E. That Defendant be ordered to account for and pay over to Plaintiff all its respective gains, profits and advantages derived from the infringement of the Patents or such damages as to the Court shall appear proper within the patent laws.

F. That Defendant be ordered to pay Plaintiff enhanced damages (*e.g.*, treble damages).

G. That Defendant be ordered to pay to Plaintiff the costs of this action, prejudgment interest, and post-judgment interest.

H. That this case be found to be exceptional.

I. That Defendant be ordered to pay Plaintiff's reasonable attorneys' fees, experts' fees, and costs.

J. That Plaintiff be awarded such other and further relief as the Court may deem just and proper.

Respectfully submitted,

/s/ Ryan T. Beard

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ATTORNEYS FOR PLAINTIFF

PONO PAANI, LLC

EXHIBIT 1



US00D694226S

(12) **United States Design Patent**
Thompson et al.

(10) **Patent No.:** **US D694,226 S**

(45) **Date of Patent:** **** Nov. 26, 2013**

(54) **CASE FOR A PORTABLE ELECTRONIC DEVICE**

D603,838 S 11/2009 Willis
D614,603 S * 4/2010 Skillings D14/217
7,731,191 B2 6/2010 Sternberg

(Continued)

(75) Inventors: **Hunter S. Thompson**, Austin, TX (US);
Jamie L. Thompson, Austin, TX (US);
James W. Thompson, Austin, TX (US);
Frazier Newlin, Austin, TX (US)

(73) Assignee: **Rubicon Communications, LP**, Austin, TX (US)

(**) Term: **14 Years**

(21) Appl. No.: **29/390,892**

(22) Filed: **Apr. 29, 2011**

(51) **LOC (9) Cl.** **14-03**

(52) **U.S. Cl.**
USPC **D14/250**

(58) **Field of Classification Search**

USPC D14/250-253, 440, 203.3-203.7, 217,
D14/496, 248, 238.1, 240, 447; D3/201,
D3/218, 269, 301, 273, 303, 103, 247;
D13/103, 107-108, 119; 220/4.02;
248/309.1, 371, 176.3, 668;
361/679.56, 679.3, 679.25, 816;
379/426, 433.11, 455; 455/575.1,
455/575.8; 206/305, 320; 345/173

See application file for complete search history.

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(Continued)

Primary Examiner — Carla Jobe Wright

(74) *Attorney, Agent, or Firm* — Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.; Eric B. Meyertons

(57) **CLAIM**

The ornamental design for a case for a portable electronic device, as shown and described.

DESCRIPTION

FIG. 1 is a rear-bottom-right perspective view of a case for a portable electronic device.

FIG. 2 is a front-bottom-left perspective view of the case for a portable electronic device.

FIG. 3 is a rear view of the case for a portable electronic device.

FIG. 4 is a right view of the case for a portable electronic device.

FIG. 5 is a left view of the case for a portable electronic device.

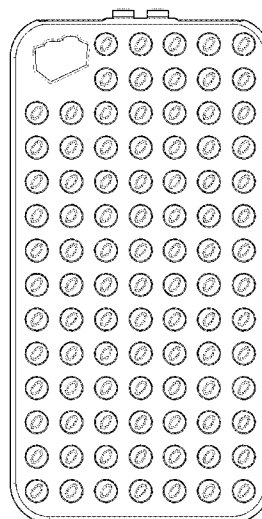
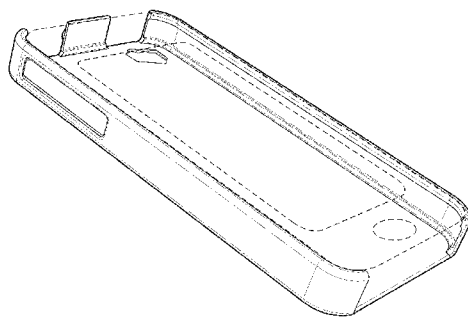
FIG. 6 is a front view of the case for a portable electronic device.

FIG. 7 is a top view of the case for a portable electronic device; and,

FIG. 8 is a bottom view of the case for a portable electronic device.

In the drawings, all broken lines on the interior portion of the case in FIG. 2 and the broken lines on the surfaces of the round protruding features throughout the drawings, depict unclaimed environment.

1 Claim, 4 Drawing Sheets



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"Lego iPad Stand" discussion posted Aug. 24, 2010 on www.ifans.com/forums/threads/lego-ipad-stand.307442/ p. 3, pp. 1-5.

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"Amazon Lego 2GB MP3 Player" Amazon product page downloaded Mar. 28, 2011 from www.amazon.com/Digital-Blue-LG14000-Lego-Player/dp/B002L619ZE/ . . . , pp. 1-5.

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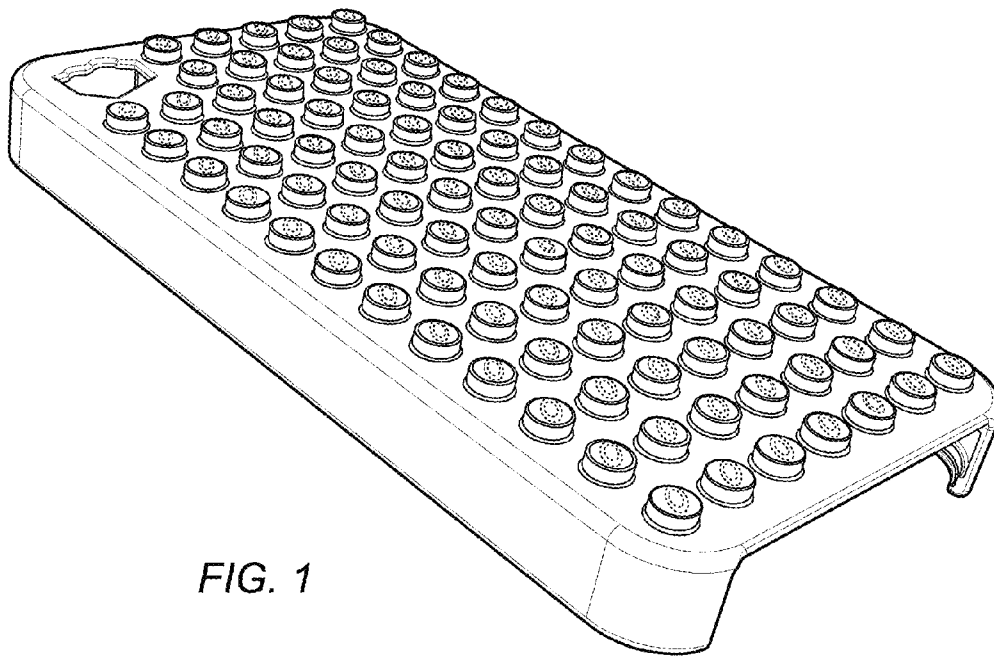


FIG. 1

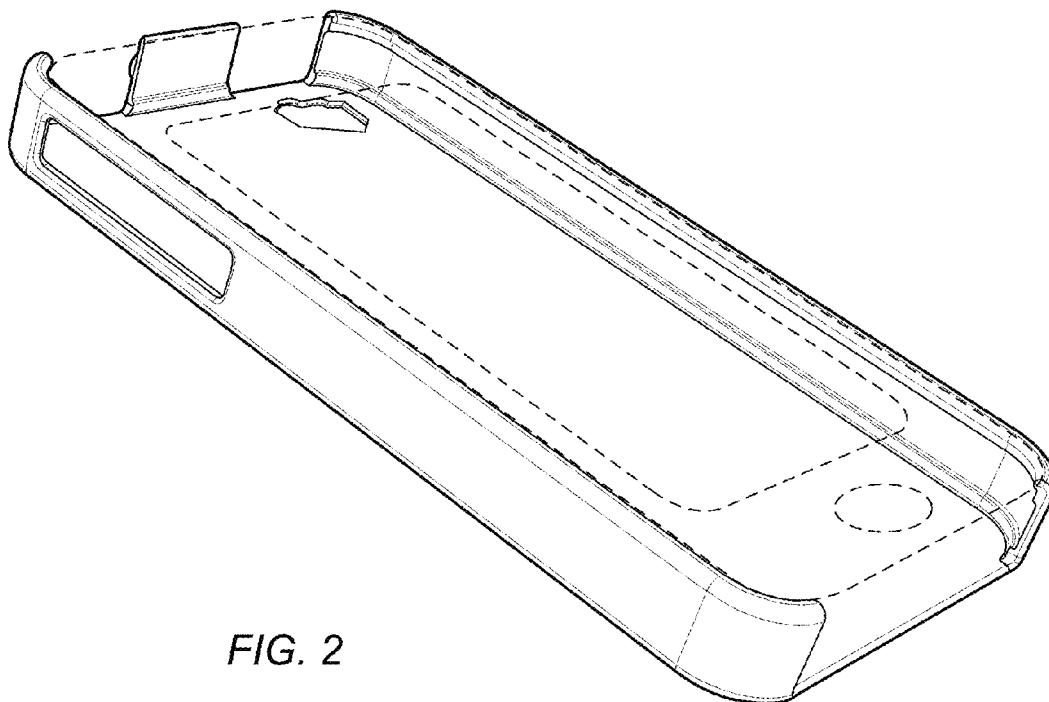


FIG. 2

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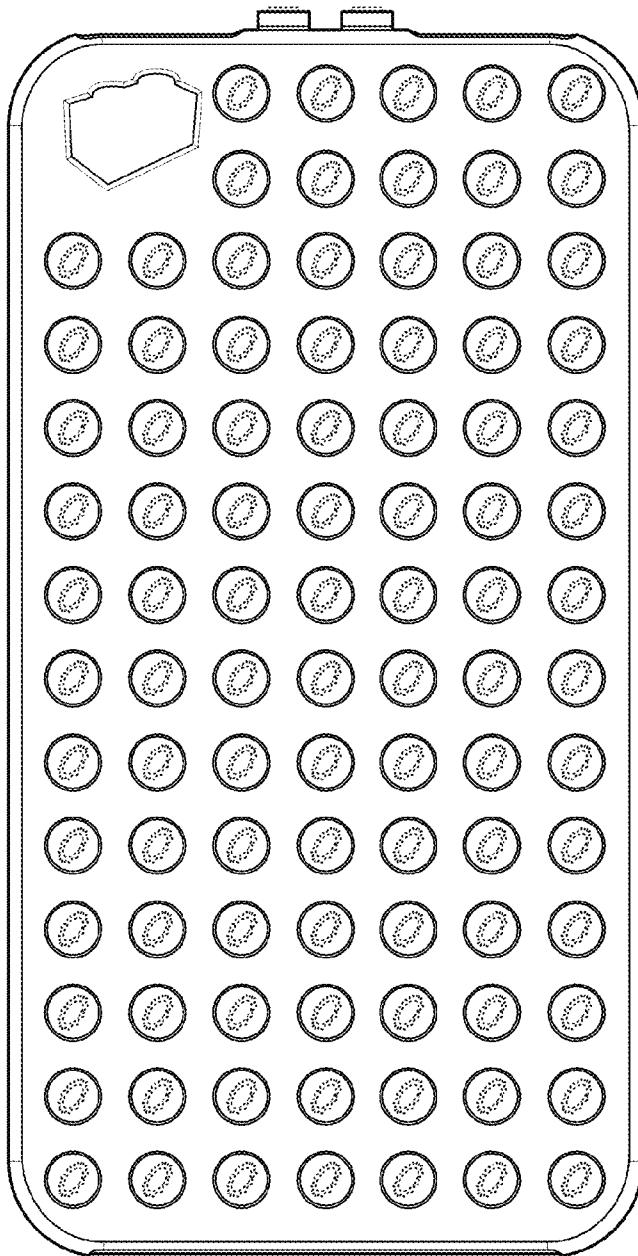


FIG. 3

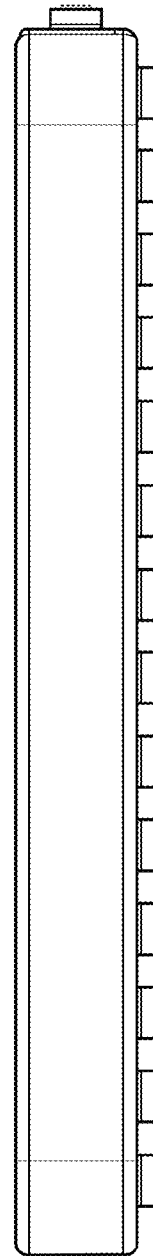


FIG. 4

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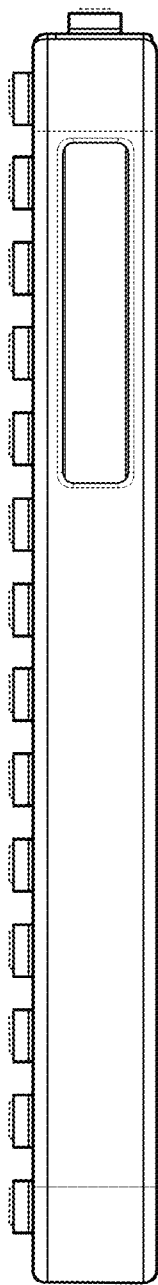


FIG. 5

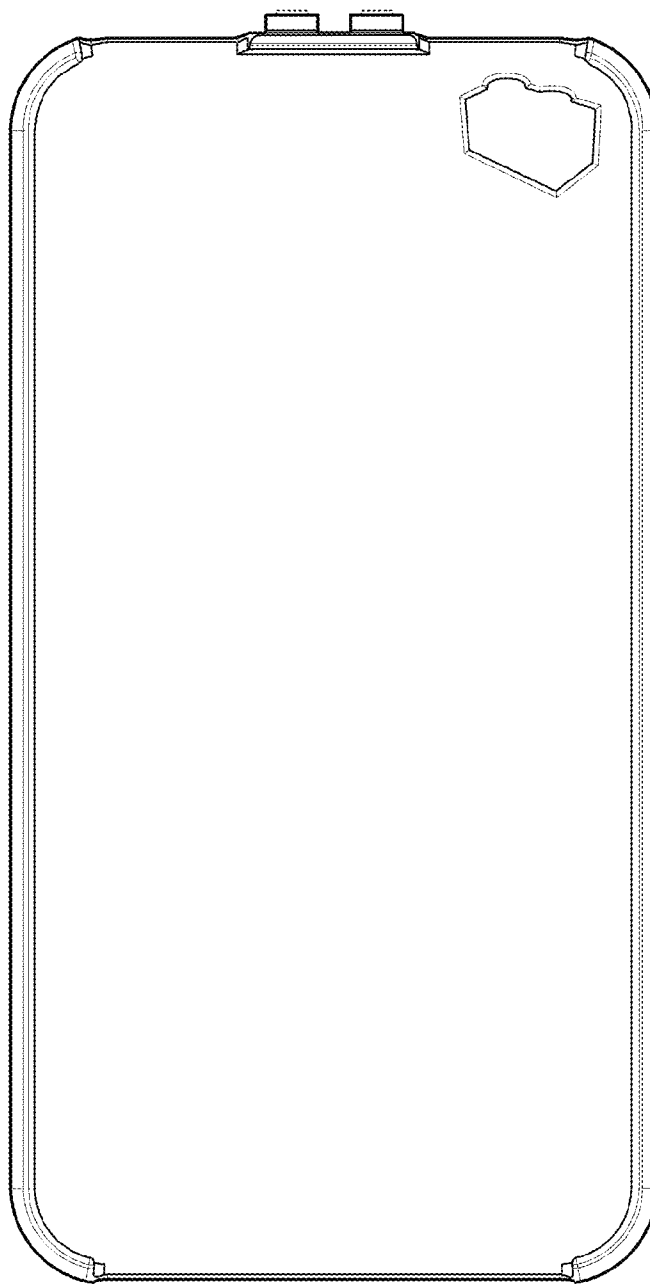


FIG. 6

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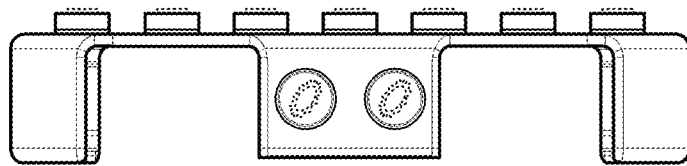


FIG. 7

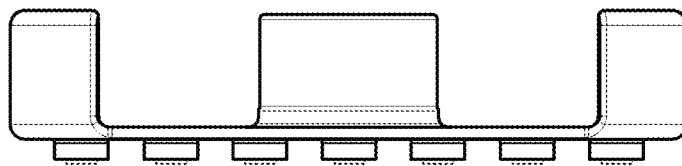


FIG. 8

EXHIBIT 2



US00D694222S

(12) **United States Design Patent**
Thompson et al.

(10) **Patent No.:** **US D694,222 S**

(45) **Date of Patent:** **** Nov. 26, 2013**

(54) **CASE FOR A PORTABLE MEDIA PLAYER**

(75) Inventors: **Hunter S. Thompson**, Austin, TX (US);
Jamie L. Thompson, Austin, TX (US);
James W. Thompson, Austin, TX (US);
Frazier Newlin, Austin, TX (US)

(73) Assignee: **Rubicon Communications, LP**, Austin, TX (US)

(**) Term: **14 Years**

(21) Appl. No.: **29/390,894**

(22) Filed: **Apr. 29, 2011**

(51) **LOC (9) Cl.** **14-03**

(52) **U.S. Cl.**
 USPC **D14/238.1; D14/250**

(58) **Field of Classification Search**

USPC D14/250–253, 440, 203.3–203.7, 217,
 D14/496, 248, 238.1, 240, 447; D3/201,
 D3/218, 269, 301, 273, 303, 103, 247;
 D13/103, 107–108, 119; 220/4.02;
 248/309.1, 371, 176.3, 668;
 361/679.56, 679.3, 679.25, 816;
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 455/575.8; 206/305, 320; 345/173

See application file for complete search history.

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D528,126	S *	9/2006	Kim	D14/203.3
D539,539	S *	4/2007	Braden	D14/203.7
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(Continued)

Primary Examiner — Carla Jobe Wright

(74) *Attorney, Agent, or Firm* — Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.; Eric B. Meyertons

(57) **CLAIM**

The ornamental design for a case for a portable media player, as shown and described.

DESCRIPTION

FIG. 1 is a rear-bottom-right perspective view of a case for a portable media player.

FIG. 2 is a front-top-right perspective view of the case for a portable media player.

FIG. 3 is a rear view of the case for a portable media player.

FIG. 4 is a right view of the case for a portable media player.

FIG. 5 is a left view of the case for a portable media player.

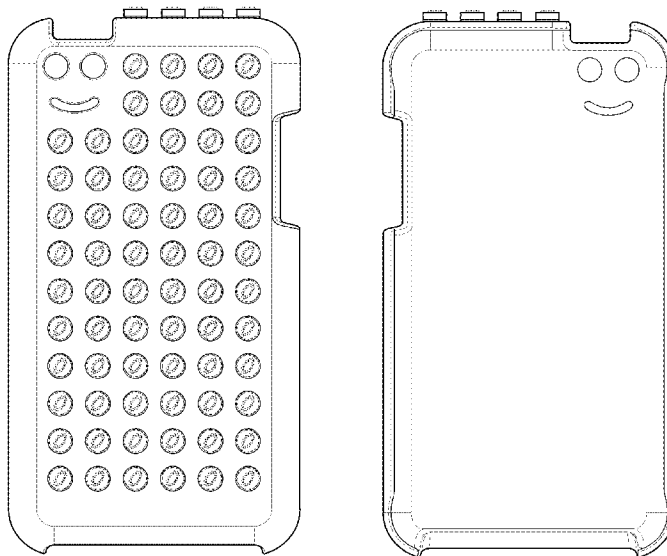
FIG. 6 is a front view of the case for a portable media player.

FIG. 7 is a top view of the case for a portable media player; and,

FIG. 8 is a bottom view of the case for a portable media player.

The broken lines in the drawings are for illustrative purposes only and form no part of the claimed design. In the drawings, all broken lines on the interior portion of the case in FIG. 2, the broken lines on the surfaces of the round protruding features throughout the drawings, and the broken lines on the top recessed portion of the case in FIGS. 3, 7, and 8, depict unclaimed environment.

1 Claim, 4 Drawing Sheets



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D647,526	S *	10/2011	Vandiver et al.	D14/440
8,091,892	B2	1/2012	Sternberg		
D654,900	S *	2/2012	Jung	D14/138 G
D656,929	S *	4/2012	Hsiung	D14/250
D658,373	S *	5/2012	Gros	D3/273
D666,417	S *	9/2012	Phillips et al.	D3/303
D668,246	S *	10/2012	Fathollahi	D14/250
D669,458	S *	10/2012	Wilson et al.	D14/250
D671,933	S *	12/2012	Rodgers	D14/250
D673,159	S *	12/2012	McCarthy et al.	D14/440
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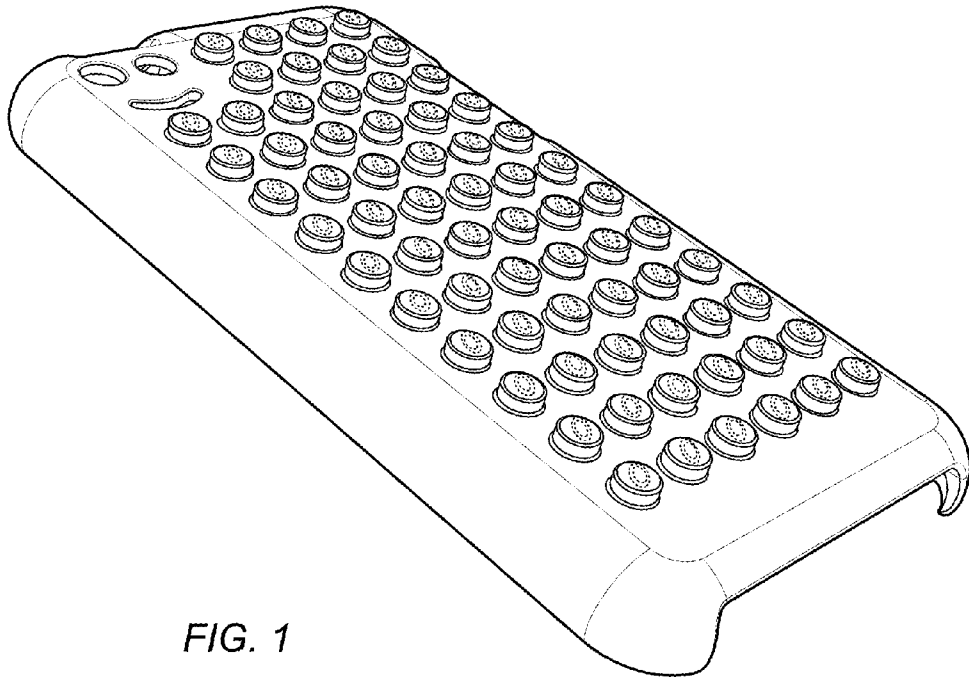


FIG. 1

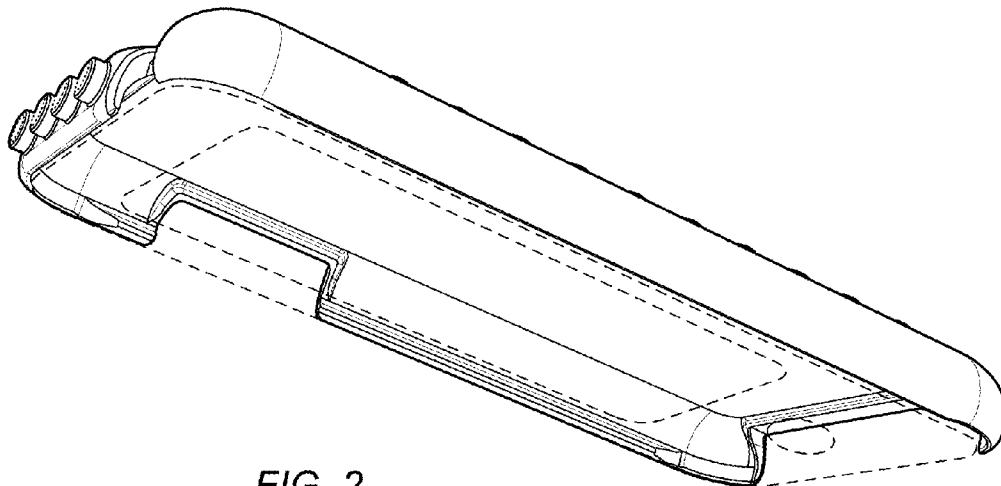


FIG. 2

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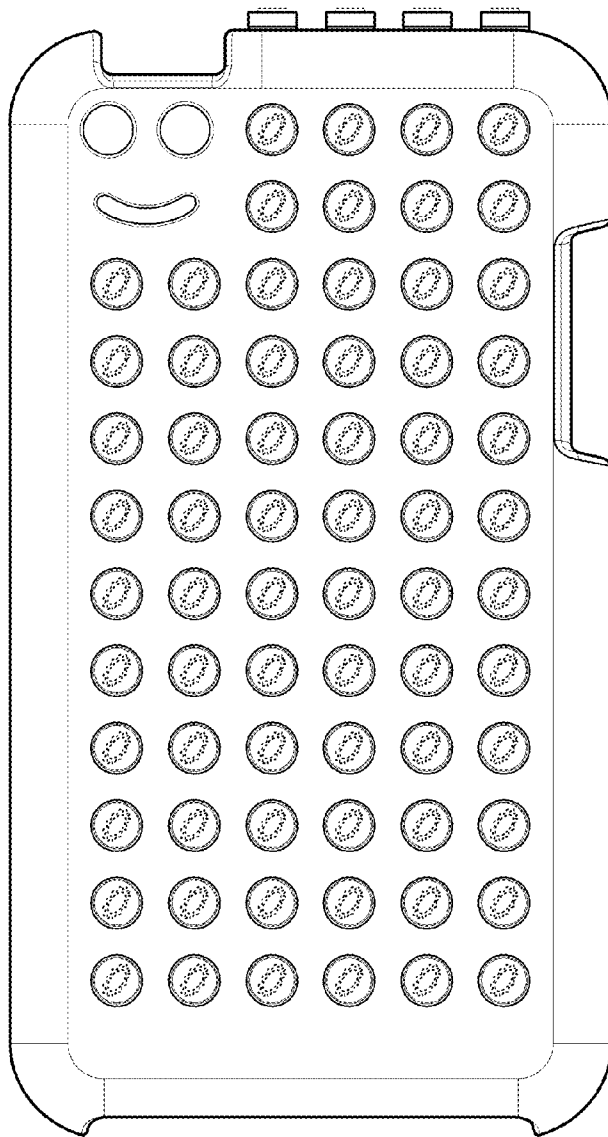


FIG. 3

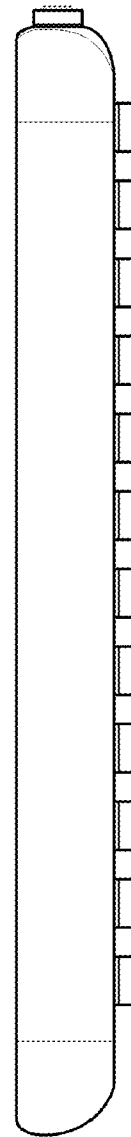


FIG. 4

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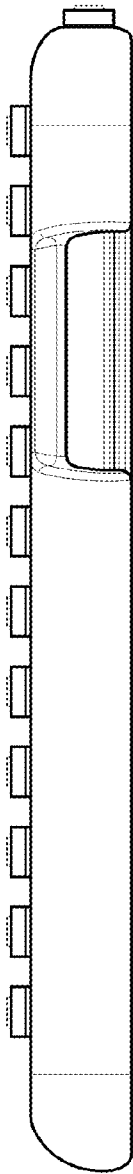


FIG. 5

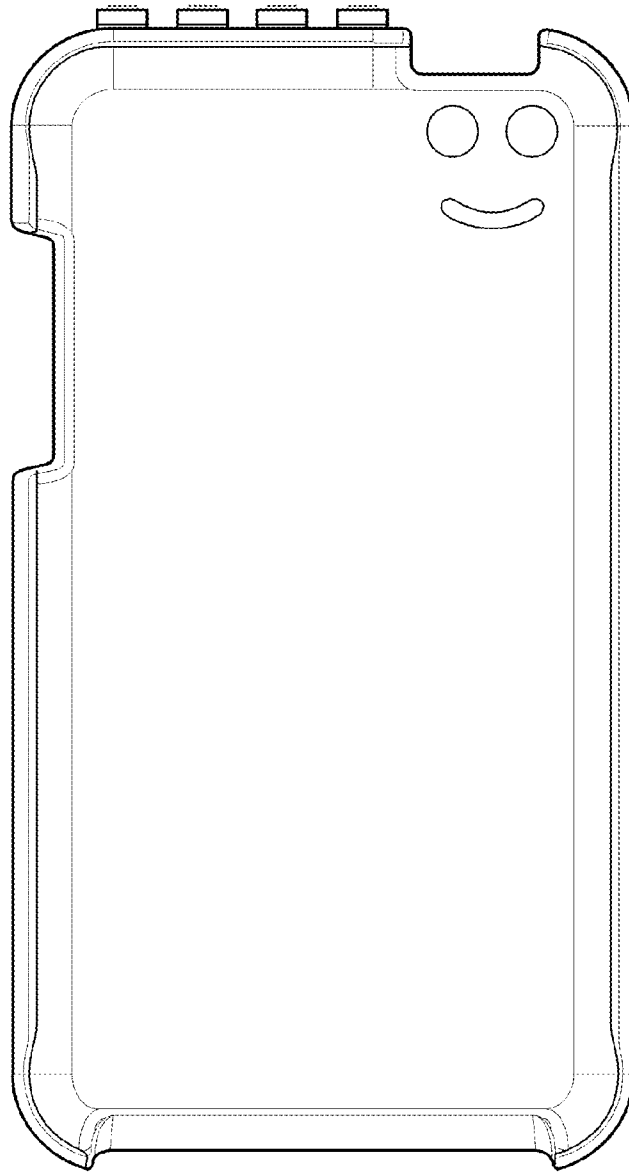


FIG. 6

U.S. Patent

Nov. 26, 2013

Sheet 4 of 4

US D694,222 S

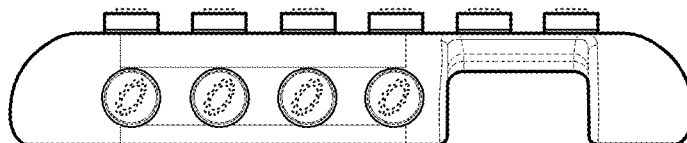


FIG. 7

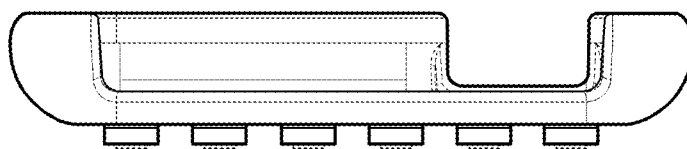


FIG. 8

EXHIBIT 3



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LEGO®

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Dana Tanamachi (10)

Orla Kiely (10)

Vans (7)

Tracy Reese (5)

LEGO® (3)

Pro Cycling Team (1)

MY DEVICE

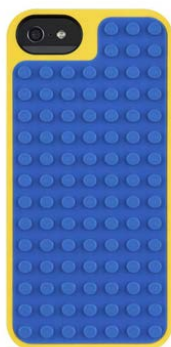
iPad (1)

iPhone (1)

iPod (1)

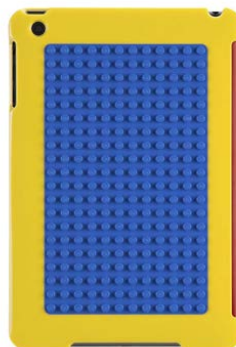
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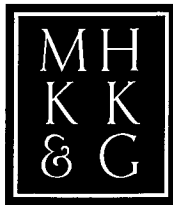


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EXHIBIT 4



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PATENTS, TRADEMARKS, COPYRIGHTS & UNFAIR COMPETITION

ERIC B. MEYERTONS
(512) 853-8800
emeyertons@intprop.com

FILE NO. 5805-04200

June 2, 2014

Via Federal Express Delivery

Mr. Chester J. Pipkin
Chief Executive Officer
Belkin International, Inc.
12045 E. Waterfront Drive
Playa Vista, California 90094

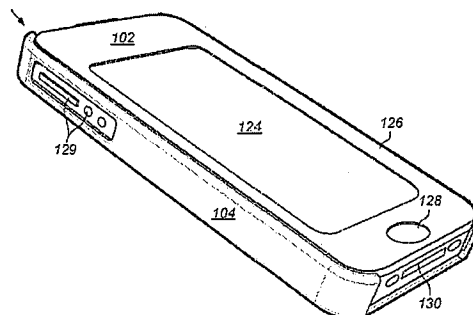
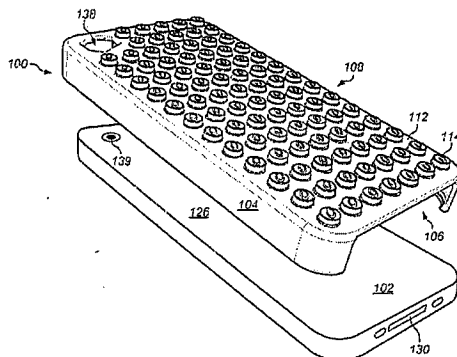
Re: Electronic Device Case Patents

Dear Mr. Pipkin:

We represent Pono Paani, LLC ("Pono Paani") with respect to certain intellectual property matters. Please direct all communications concerning this letter to me.

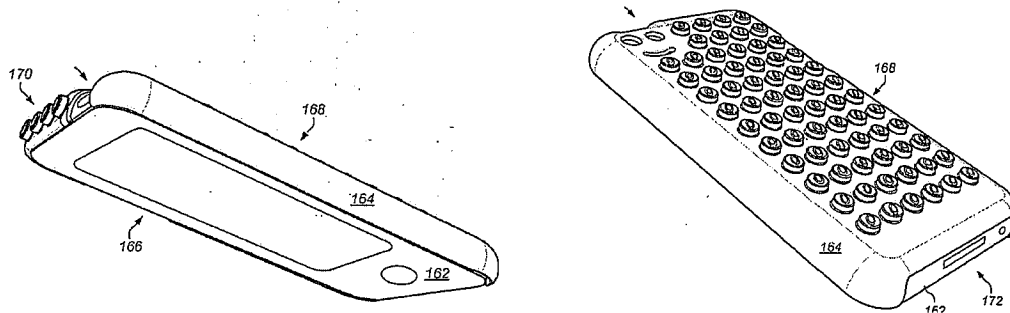
Pono Paani and/or its affiliated companies make and sell cases for electronic devices, such as mobile phones. The cases include studded surfaces to which play bricks can be attached. Additional information with respect to these products can be found at www.smallworks.com.

Pono Paani is assignee of U.S. Patent No. 8,477,931 to Thompson et al. relating to a Case for Electronic Device with Surface for Attaching Building Elements (the "'931 Patent"). I attach of copy of this patent for your convenience. Figures 1 and 2 of this patent are reproduced as follows:

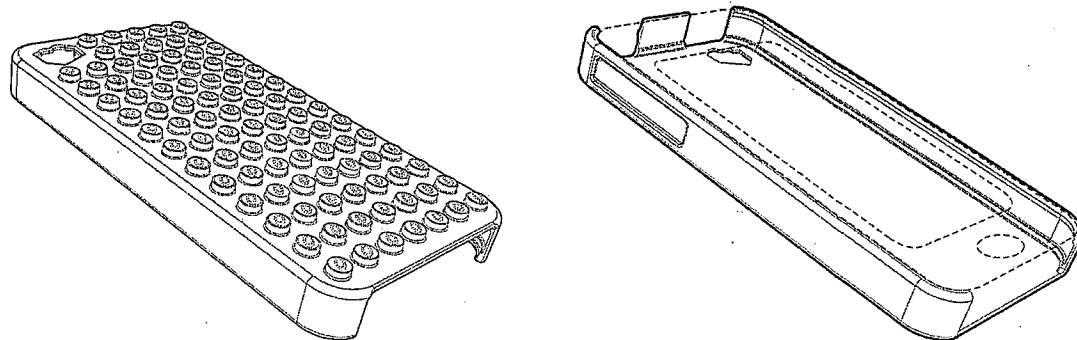


Mr. Chester J. Pipkin
Chief Executive Officer
Belkin International, Inc.
Page 2

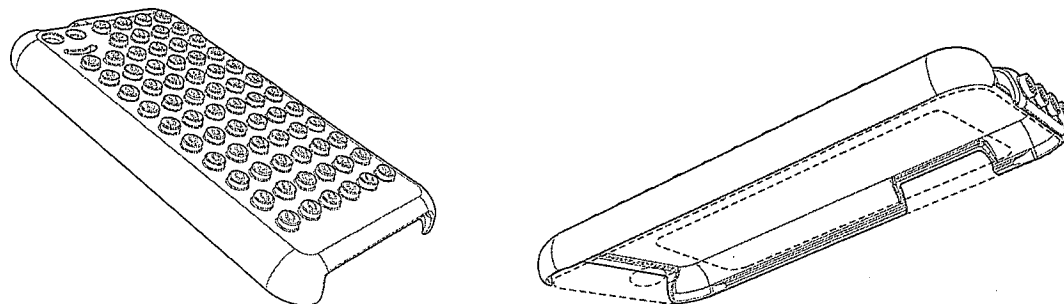
Figs. 4 and 5 of the '931 Patent are reproduced as follows:



Pono Paani is also assignee of U.S. Patent No. D694,226 to Thompson et al., relating to a Case for a Portable Electronic Device. I attach a copy of this patent for your convenience. Figures 1 and 2 of the D694,226 patent are reproduced as follows:



Pono Paani is also assignee of U.S. Patent No. D694,222 to Thompson et al., relating to a Case for a Portable Media Player. I attach a copy of this patent for your convenience. Figures 1 and 2 of the D694,222 patent are reproduced as follows:



Mr. Chester J. Pipkin
Chief Executive Officer
Belkin International, Inc.
Page 3

Pono Paani is also assignee of Office for Harmonization in the Internal Market Registered Community Designs Nos. 001939851-0001 and 001939851-0002. Copies of certificates for these designs are enclosed for your convenience.

Pono Paani is also assignee of patent application U.S. Patent Appl. No. 13/927,911, which has published as US Patent Publication No. 20130344769. A copy of this publication is enclosed for your convenience.

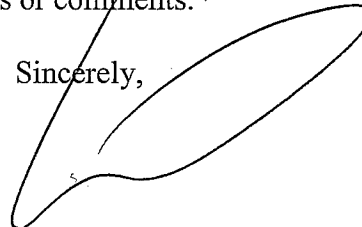
We note that your company has apparently been offering for sale and/or selling electronic device cases that include studded surfaces. See, for example, the attached screen shots from your web site at www.belkin.com.

As you know, the assignee of a patent has the right to exclude others from infringing the patent – for example, others who are making, using, selling, offering for sale, and importing inventions covered by the patent. The assignee of a patent can also exclude others from contributorily infringing the patent and/or from inducing infringement of the patent.

Pono Paani and/or its affiliated companies have expended a large amount of time and effort developing the markets for products that are covered by its intellectual property rights. We ask Belkin International and any affiliated companies to respect Pono Paani's intellectual property rights with respect to cases and accessories for electronic devices.

Please let us know if you have any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric B. Meyertons". The signature is stylized with a large, sweeping loop at the end.

Eric B. Meyertons

EBM:jl
Enclosures

EXHIBIT 5



MEYERTONS
HOOD
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& GOETZEL

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PATENTS, TRADEMARKS, COPYRIGHTS & UNFAIR COMPETITION

ERIC B. MEYERTONS
(512) 853-8800
emeyertons@intprop.com

FILE NO. 5805-04200

August 8, 2014

Via Federal Express Delivery

Mr. Chester J. Pipkin
Chief Executive Officer
Belkin International, Inc.
12045 E. Waterfront Drive
Playa Vista, California 90094

Re: Electronic Device Case Patents

Dear Mr. Pipkin:

We previously sent a letter dated June 2, 2014 regarding Pono Paani, LLC's patent rights relating to electronic device cases. A copy of the letter is enclosed for your convenience. Would you please let us know if you are going to respond to this letter?

Sincerely,

Eric B. Meyertons

EBM:jl
Enclosure

EXHIBIT 6

Chris Thompson

From: Tom Triggs <Tom.Triggs@belkin.com>
Sent: Monday, August 18, 2014 12:42 PM
To: Eric Meyertons
Subject: August 8 Letter - patent

Dear Mr. Meyertons,


I am writing to acknowledge receipt of your communication, dated August 8, 2014, with its attachment. We are passing your communication along to our license partner, The LEGO Group, for their review and evaluation as well. We will review the allegations set forth in your letter, and one of us will get back to you once we have had ample time to review and consider your letter.

Regards,
Tom

D. Thomas Triggs
Chief Legal Officer and General Counsel
Belkin International, Inc.
12045 East Waterfront Drive
Playa Vista, California 90094
P 310 751 2922

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EXHIBIT 7

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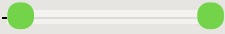
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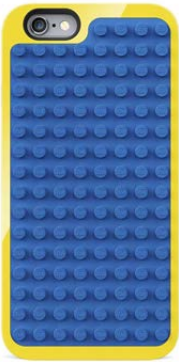




LEGO® Builder Case for iPhone 6 Plus and iPhone 6s Plus

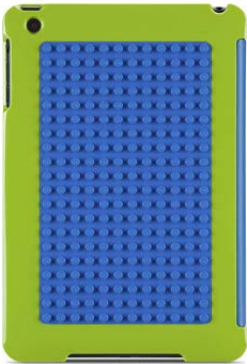
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